

1 LENARD E. SCHWARTZER  
2 2850 S. Jones Blvd., Ste 1  
3 Las Vegas, NV 89146  
(702) 307-2022  
3 Trustee@s-mlaw.com  
4 TRUSTEE

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6 UNITED STATES BANKRUPTCY COURT  
7 DISTRICT OF NEVADA

8 In re ) Case No. BK-S 20-10752-ABL  
9 JIMENEZ ARMS, INC., ) CHAPTER 7  
10 ) TRUSTEE'S MOTION FOR TURNOVER OF  
11 ) ACCOUNTING RECORDS  
12 ) Date: July 23, 2020  
13 Debtor ) Time: 11:00 a.m.  
14 \_\_\_\_\_ )

15 The Motion of LENARD E. SCHWARTZER, Chapter 7 Trustee, states:

16 1. That he is the duly qualified and acting trustee in the above-entitled estate of Jimenez  
17 Arms, Inc. ("Debtor").

18 2. The Debtor's voluntary bankruptcy case was filed on February 10, 2020. [Doc 1].

19 3. The Debtor's Statement of Financial Affairs [Doc 10] states:

20 26. Books, records and financial statements:

21 26.a. List all accountants and bookkeepers who maintained the debtor's books and  
records within 2 years before filing this case:

22 26.a.1 Genske Mulder Co.  
23 3187 Red Hill Ave. #10  
24 Capistrano Beach, CA 92624  
Dates of service: 2006-2020

25 4. The Debtor's representative, Paul Jimenez, Sr., confirmed that Gary Genske of  
Genske Mulder & Company had been the Debtor's accountant and had received the Debtor's  
26 accounting information in order to maintain the Debtor's financial records and to prepare tax returns.

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5. By letter dated April 16, 2020, the Trustee requested Genske Mulder Co. to "provide me with the originals or copies of all the records of Jimenez Arms, Inc. in your possession". A copy of the letter is attached hereto as Exhibit "1" and incorporated herein by reference.

6. A follow up letter was sent on May 21, 2020. A copy of the letter is attached hereto as Exhibit "2" and incorporated herein by reference.

7. As of the date of this motion, the Trustee has received no documents and no response to either letter from Gary Genske or Genske Mulder & Company.

## **MEMORANDUM OF LAW**

The Trustee seeks entry of an Order compelling Gary Genske and Genke Mulder & Company to turn over the accounting records of the Debtor.

Bankruptcy Code § 542(e) provides:

"Subject to any applicable privilege, after notice and a hearing, the court may order an attorney, accountant, or other person that holds recorded information , including books, documents, records, and papers relating to the debtor's property or financial affairs, to turn over or disclose such recorded information to the trustee."

California Board of Accountancy Rules provide"

"A licensee, after demand by or on behalf of a client, for books, records or other data, whether in written, or machine sensible form, that are the clients records shall not retain such records. Unpaid fees do not constitute justification for retention of client records. Although, in general, the accountant's working papers are the property of the licensee, if such working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client, then the information on those working papers must be treated the same as if it were part of the client's books and records."

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1 WHEREFORE, the Trustee requests that the Court enter an order compelling Gary B. Genske  
2 and Genske Mulder & Company to turn over all the books, records or other data of Jimenez Arms,  
3 Inc. within ten (10) days of entry of an order by this Court.

4 Dated: June 9, 2020

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6 LENARD E. SCHWARTZER, Trustee

7 **DECLARATION OF TRUSTEE**

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9 I declare, under penalty of perjury, that the facts alleged in the foregoing motion are true and  
10 correct, to the best of my knowledge, information and belief.  
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12 DATED: June 9, 2020

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14 LENARD E. SCHWARTZER

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Exhibit “1”

**LENARD E. SCHWARTZER**  
**FEDERAL BANKRUPTCY TRUSTEE**

2850 SOUTH JONES BOULEVARD, SUITE 1  
LAS VEGAS, NEVADA 89146-5308  
TELEPHONE: (702) 307-2022 FACSIMILE: (702) 974-0976

April 16, 2020

**GENSKE MULDER CO**  
**3187 RED HILL AVE. #110**  
**Capistrano Beach, CA 92624**

**Re: JIMENEZ ARMS, INC.**  
**Bankruptcy Case 20-10752-ABL**

Dear Sirs,

I am the trustee appointed in the bankruptcy case of JIMENEZ ARMS, INC. See enclosed Notice of Chapter 7 Bankruptcy.

JIMENEZ ARMS, INC.'s schedules list you as the company's accountants or bookkeepers. Pursuant to Bankruptcy Code §542, I am entitled to all of a debtor's property including a debtor's records. Section 542(a) states in relevant part, "[A]n entity... in possession, custody, or control, during the case, of [property of the estate], shall deliver to the trustee, and account for, such property or the value of such property, unless such property is of inconsequential value or benefit to the estate." Section 542(e) provides:

(e) Subject to any applicable privilege, after notice and a hearing, the court may order an attorney, accountant, or other person that holds recorded information, including books, documents, records, and papers, relating to the debtor's property or financial affairs, to turn over or disclose such recorded information to the trustee.

As trustee, I am entitled to the records of JIMENEZ ARMS, INC. Can you provide me with the originals or copies of all the records of JIMENEZ ARMS, INC. in your possession? Your prompt attention to this request would be appreciated.

Sincerely,



Lenard Schwartzzer

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Enclosure

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Exhibit "2"

**LENARD E. SCHWARTZER**  
FEDERAL BANKRUPTCY TRUSTEE

2850 SOUTH JONES BOULEVARD, SUITE 1  
LAS VEGAS, NEVADA 89146-5308  
TELEPHONE: (702) 307-2022 FAXSIMILE: (702) 974-0976

May 21, 2020

GENSKE MULDER CO  
3187 RED HILL AVE.  
#110  
Capistrano Beach, CA 92624

Re: Jimenez Arms, Inc ("Debtor")  
Case No. 20-10752

Dear Mr. Genske-

This is a follow up to my letter of April 16, 2020.

I have not received the requested documents. Next week, I will be filing a motion with the Bankruptcy Court ordering you to provide the documents.

Sincerely,  
  
Lenard Schwartzzer

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